IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.218 OF 2005

IN

SUIT NO.4827 OF 1999

...

M/s.R.Piyarelall Import & Export
Ltd. & Anr. ...Plaintiffs

v/s.

M/s.Globe Trading Shipping Corpn.
and Anr. ...Defendants

...

None for the Plaintiffs.

Mr.Vishal Sheth i/b R.A.Fernandes for Defendant No.3 in support.

...

CORAM: D.K.DESHMUKH, J.

DATED: 8TH MARCH,2006

P.C.:

This Notice of Motion is taken out by the Defendant No.3. According the affidavit filed by the Defendant No.3 in the entire plaint there is not a single averment made as to why the Defendant No.3 is joined as Defendant. Perusal of the plaint shows that in the plaint there are also no averments made as to how the Defendant No.3 is related to either the Plaintiff or the Defendant No.1. All the averments in the plaint are in relation to Defendant Nos. 1 & 2. There is no averment in the plaint which will show that the Plaintiff is entitled to any relief against the Defendant No.3.

2. The learned Counsel appearing for the Defendant No.3 states that the Plaintiff has been served with the Notice of Motion. He undertakes to file affidavit of service within one week from today. The Plaintiff is not appearing. The Plaintiff has also

not filed any reply. In these circumstances, therefore, in the absence of any averments in the plaint showing that the Defendant No.3 is liable in any way, in my opinion, motion has to be granted. Accordingly, motion is granted in terms of prayer clause (a). Motion disposed of.

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